

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAVID CATANZARO

Plaintiff

CIVIL ACTION - LAW

v.

CANDYRIFIC, LLC, et al.

Defendant

No. 3:15-0554  
(Judge Mannion)

(ELECTRONICALLY FILED)

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JOINT MOTION REQUESTING COURT ORDER  
APPROVING AGREEMENT BY PARTIES

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AND NOW COME Plaintiff, David J. Catanzaro, and Defendant, CandyRific, LLC, through its counsel, and respectfully move for an Order approving an agreement reached by the parties and in support thereof aver as follows:

1. Plaintiff initiated this action by Complaint filed on March 19, 2015. (Doc. 1).
2. The Defendants named in the Complaint are CandyRific, LLC (“CandyRific”), and the following entities identified collectively as the “Retail Defendants”: Kmart Corporation, Target Corporation,

Toys “R” Us, Inc., Wal-Mart Stores, Inc., Walgreen Co., and Does 1-50.

3. To date, no Defendants have been served in this matter.
4. On April 20, 2015, CandyRific appeared in this action and filed a motion to dismiss or, in the alternative, to transfer venue to the United States District Court for the Western District of Kentucky. (Docs. 6 & 7).
5. Plaintiff responded by filing an Amended Complaint (Doc. 10) on May 4, 2015, and the Court accordingly dismissed CandyRific’s motion to dismiss the complaint (Doc. 12).
6. On May 11, 2015, Plaintiff filed a Second Amended Complaint (Doc. 13) which was stricken from the record by Order on May 18, 2015 (Doc. 15) because the Plaintiff failed to request leave of court to file the Second Amended Complaint.
7. The only material difference between the Second Amended Complaint and the Amended Complaint was the removal of the Retail Defendants as parties.
8. Counsel for CandyRific and Plaintiff are involved in discussions concerning the issue of proper venue, specifically whether the claims

between them should be litigated in the United States District Court for the Western District of Kentucky.

9. Pursuant to those discussions, CandyRific and Plaintiff have stipulated and agreed to the following:
  - a. Plaintiff dismisses, without prejudice, any and all claims asserted in this action against Kmart Corporation, Target Corporation, Toys “R” Us, Inc., Wal-Mart Stores, Inc., Walgreen Co., and Does 1-50.
  - b. The sole remaining defendant in this action, CandyRific, shall have until and including June 19, 2015 to respond to Plaintiff’s amended complaint.
10. Plaintiff and CandyRific respectfully request that this Court enter the tendered Order reflecting the agreement.
11. The instant motion is not made for the purpose of delay or harassment of any party or counsel.

WHEREFORE, the undersigned, together with Plaintiff, respectfully request that this Honorable Court grant the instant motion.

Respectfully submitted,

Stites & Harbison PLLC

By: /s/ T. Morgan Ward  
T. Morgan Ward, Jr., Esquire  
400 West Market Street  
Suite 1800  
Louisville, KY 40202-3352

Oliver, Price & Rhodes

By: /s/ Erin A. Brennan  
Erin A. Brennan, Esquire  
1212 South Abington Road  
PO Box 240  
Clarks Summit, PA 18411

**CERTIFICATE OF CONCURRENCE**

I, Erin A. Brennan, Esquire, counsel for the Defendant, hereby certify that I have contacted David Catanzaro regarding his concurrence in this Motion and he indicated to me that he concurs in this Joint Motion Requesting Court Order Approving Agreement by Parties.

/s/ Erin A. Brennan  
Erin A. Brennan, Esq.

**CERTIFICATE OF SERVICE**

I, Erin A. Brennan, Esquire, of Oliver, Price & Rhodes, hereby certify that on the 20<sup>th</sup> day of May, 2015, I served a true and correct copy of the JOINT MOTION REQUESTING COURT ORDER APPROVING AGREEMENT BY PARTIES pursuant to the Federal Rules of Civil Procedure, as follows:

David Catanzaro  
286 Upper Powderly Street  
Carbondale, PA 18407

/s/ Erin A. Brennan  
Erin A. Brennan, Esq.